

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

PAUL KENDRICK,

Plaintiff,

v.

C. O. SHAW,

Defendant.

Civil Action No. 2:22-cv-1805

Hon. William S. Stickman IV
Hon. Maureen P. Kelly

ORDER OF COURT

Plaintiff Paul Kendrick (“Kendrick”) brought this action asserting civil rights violations under the Eighth Amendment as well as state law assault and battery claims against a state correctional officer while he was imprisoned at the State Correctional Institution at Fayette. (ECF No. 5). Defendant C.O. Shaw (“Shaw”) has sought summary judgment in his favor. (ECF No. 40). The Honorable Maureen P. Kelly issued a Report and Recommendation recommending that the motion be granted in part and denied in part. (ECF No. 60). The parties were given the opportunity to file objections, and no objections have been filed.

After its independent review of the record and consideration of the parties’ pleadings, the Court hereby ADOPTS Magistrate Judge Kelly’s Report and Recommendation as its Opinion. It concurs with her thorough analysis of the claims and her legal conclusions. The motion will be granted as to Kendrick’s retrospective claims for monetary damages and declaratory judgment against Shaw in his official capacity. Genuine disputes of material fact exist as to Kendrick’s Eighth Amendment excessive force claim as well as his state law assault and battery claims. Thus, the motion will be denied as to these claims. Lastly, Kendrick’s request for injunctive relief will be denied without prejudice to be raised at trial.

AND NOW, this 18 day of September 2024, IT IS HEREBY ORDERED that Corrections Defendant's Motion for Summary Judgment (ECF No. 40) is GRANTED IN PART and DENIED IN PART. The motion is granted as to Kendrick's retrospective claims for monetary damages and declaratory judgment against Shaw in his official capacity, but denied on all other grounds.

BY THE COURT:



WILLIAM S. STICKMAN IV
UNITED STATES DISTRICT JUDGE